IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 83 of 1997
with
CRIMINAL REVISION APPLICATION No. 230 of 1997
with
CRIMINAL MISC. APPLICATION No.2246 of 1997
in
CRIMINAL REVISION APPLICATION NO. 83 of 1997
and
CRIMINAL MISC. APPLICATION NO. 2382 of 1997
in
CRIMINAL REVISION APPLICATION NO. 83 of 1997

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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DISTRICT PANCHAYAT - Applicant(s)
Versus
TATA CHEMICALS LTD. & 1 - Respondent(s)

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Appearance :
MR PV HATHI for Applicant(s) : 1,
NOTICE SERVED for Respondent(s) : 1,
MR ANSHIN H DESAI for Respondent(s) : 1,
Ms. Mita Panchal, Addl.PUBLIC PROSECUTOR for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 09/05/2007

COMMON ORAL JUDGMENT

1. The main Criminal Revision Applications No. 83 and 230 of 1997, filed by the respective parties, have sought to challenge the same order dated 2.12.1996 of the Sub Divisional Magistrate, Jam Khambhaliya made in Misc. Case No.4 of 1996 wherein, at the instance of the complainant namely, Tata Chemicals Ltd, Mithapur, a conditional order to remove the seals on the pipelines supplying water to the complainant, was made under section 133 of the Criminal Procedure Code, 1973 (for short, "the Code"). After negotiations with the Government and execution of an agreement signed by General Manager of the original applicant company and the Executive Engineer, Panchayat Irrigation Division, Jamnagar for and on behalf of the State Government, that application is stated to have become redundant and/or infructuous. Learned counsel Mr Desai appearing for the company stated that, therefore, an application to that effect will be submitted by the original

applicant so as to have the Misc. Case No.4 of 1996 disposed as not surviving.

2. Learned senior advocate Mr P.V. Hathi, appearing for the District Panchayat submitted that the original applicant had, under the impugned order, derived huge benefit without payment of necessary charges without complying with even those conditions of the impugned order which were not under challenge. He, therefore, submitted that the civil liability of the original applicant was required to be adjudicated and determined in appropriate proceedings and one of the proceedings in that regard was pending in this court in the form of Special Civil Application No.4109 of 1999. He, therefore, requested that it may be clarified that the conclusion of the present proceedings by virtue of the proposed withdrawal or disposal of the original application would be without prejudice to the rights and contentions of the parties in respect of the civil liability of payment of charges.

3. Learned APP appearing for the State Government, submitted that, the present proceedings were not concerned with the civil liability of the original applicant and, in any case, the aforesaid agreement dated 7.5.2007 itself, by clause 23, stipulates that decision in the cases pending before this court shall be binding to the company.

4. Thus, there appears to be a consensus to the effect that the present proceedings, right from its root, i.e. original application of the company, were required to be concluded, without prejudice to the rights and contentions of the parties as regards the liability, if any, of the company towards the claims made against it by or under the authority of District Panchayat, Jamnagar. The two Misc.Applications in the main criminal revision applications shall not survive as the main revision applications are being disposed.

5. Accordingly, both the revision applications are disposed as not pressed and not surviving in view of the statement that the original Misc. Case NO.4/96 is proposed to be withdrawn by a pursis by the

original applicant itself, in view of the aforesaid agreement dated 7.5.2007. The Misc.Application filed in the Revision Applications are also disposed as not surviving in view of the disposal of the revision applications. It is, however, clarified that even after withdrawal of the original application pending before the Sub Divisional Magistrate, Jam Khambhalia, the charges or dues, if any, payable to the District Panchayat, Jamnagar by the original complainant company shall not be affected but, as stated by the learned counsel, such claims shall abide by the outcome of other legal proceedings in that behalf including the proceedings pending in this court in the form of Special Civil Application No.4109/99. Accordingly, Rule is discharged and interim relief is vacated with no order as to costs, and the Misc. Applications stand disposed as not surviving.

sd/-
[D. H. Waghela, J.]

msp